## **APPELLANT'S BRIEF** APPENDIX C

## **Order Denying Motion of** the United States Trustee to **Appoint a Trustee**

UNITED STATES BANKK SOUTHERN DISTRICT OF			
		X	
In re:		;	Chapter 11
BAYOU GROUP, LLC, <u>et</u> <u>a</u>	<u>l</u> .,	: :	Case No.: 06-22306 (ASH)
	Debtors.	: :	Jointly Administered
		: X	

### ORDER DENYING MOTION OF THE UNITED STATES TRUSTEE FOR THE APPOINTMENT OF A CHAPTER 11 TRUSTEE

Upon the motion, dated June 20, 2006, (the "Motion") of the United States Trustee for Region 2 seeking the entry of an order appointing a chapter 11 trustee for Bayou Group, LLC and its affiliated debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"); and the Court having considered the objections of the Debtors and the Official Unsecured Creditors' Committee in opposition to the Motion, the response (the "Garfinkel Response") of Eric and Diane Garfinkel in support of the Motion, and the Debtors' response to the Garfinkel Response; and a hearing (the "Hearing") having been held before this Court on June 29, 2006; and it appearing that proper and adequate notice of the Motion has been given and no other and further notice is necessary; and after due deliberation thereon; and in accordance with Rule 7052(a) of the Federal Rules of Bankruptcy Procedure, the Court having read its findings of fact and conclusions of law into the record at the Hearing; and for the reasons stated on the record at the Hearing, it is hereby

ORDERED, ADJUDGED, AND DECREED that

The Motion is denied in its entirety on the grounds articulated by this Court on the record at the Hearing as recorded in the transcript separately docketed.

Dated: White Plains, New York June 30, 2006

/s/Adlai S. Hardin, Jr.

United States Bankruptcy Judge

## APPELLANT'S BRIEF APPENDIX D

# Motion of the United States Trustee to Appoint a Trustee

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK	HEARING DATE: HEARING TIME:
In re BAYOU GROUP, LLC, et. al.,	x : Case No. 06-22306 (ASH) : Chapter 11 : Jointly Administered
Debtors.	: NOTICE OF MOTION TO APPOINT : A CHAPTER 11 TRUSTEE x

PLEASE TAKE NOTICE that upon the annexed Motion, the United States Trustee for Region 2 has asked the Court to set an expedited hearing on the Motion to Appoint a Chapter 11 Trustee. A separate notice of hearing will be sent. As soon as counsel can be heard, the United States Trustee will ask for a hearing to evaluate why an order should not be entered appointing a chapter 11 trustee or granting other and further relief as this Court may deem just and proper. The original motion and memorandum of law are on file with the Clerk of the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that the United States Trustee has asked the Court to require responses by Wednesday, June 28, 2006, and to set a hearing the same day. You should monitor the Court's docket for scheduling information. Any responsive papers should be filed with the Court and personally served on the United States Trustee, at 33 Whitehall Street, 21st Floor, New York, New York 10004-2112, to the attention of Lisa L. Lambert. Such papers shall conform to the Federal Rules of Civil Procedure and identify the party on whose behalf the papers are submitted, the nature of the response, and the basis for such response.

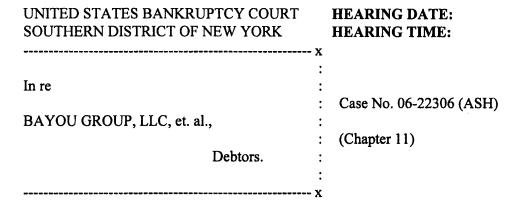
Dated:

New York, New York June 20, 2006

DIANA G. ADAMS, ACTING UNITED STATES TRUSTEE

/s/ Lisa L. Lambert (LLL4913) By: Lisa L. Lambert Trial Attorney 33 Whitehall Street, 21st Floor New York, New York 10004-2112

Tel. No. (212) 510-0500 Fax. No. (212) 668-2255



#### UNITED STATES TRUSTEE'S MOTION TO APPOINT A CHAPTER 11 TRUSTEE

TO THE HONORABLE ADLAI S. HARDIN, U.S. BANKRUPTCY JUDGE:

The United States Trustee for Region 2 moves the Court to order the appointment of a chapter 11 trustee in the Bayou Group's bankruptcy cases (collectively "Bayou"). In support, the United States Trustee respectfully represents:

#### Overview

Under the Bankruptcy Code, a trustee must be appointed to administer a chapter 11 case if the debtor cannot properly fill the role of debtor in possession. In this case, neither Bayou's former management nor the custodian can perform the duties of a debtor-in-possession. Bayou's former managers have entered guilty pleas on federal fraud charges arising from their misappropriation of Bayou hedge fund assets. Joseph Marwil, the federal equity receiver, is a custodian, and the Bankruptcy Code limits a custodian's powers. This Court should authorize the appointment of a chapter 11 trustee to rectify the absence of appropriate fiduciary management of this bankruptcy case. "Cause" exists for the appointment of a chapter 11 trustee -- Bayou cannot exercise the powers and perform the duties of a trustee as a debtor in possession, and the receiver is not empowered under the Bankruptcy Code to exercise those powers and duties. Furthermore,

appointing a chapter 11 trustee serves the "interests of creditors" by assuring that the fiduciary duties and powers of a trustee are exercised by an officer clearly empowered under the Bankruptcy Code. .

#### **Factual Statement**

- 1. Bayou was promoted as a group of hedge funds, but its management misappropriated investors' assets and falsified financial reporting. The two key managers entered guilty pleas on the federal charges that resulted from these actions. See Transcripts of Guilty Pleas, Exhibit A and B to Bayou Group LLC v. UT Medical Group Basic Pension Plan, Adv. No. 06-8292.
- 2. As evidenced by Bayou's failure to respond to the creditors' federal district court action, the managers have not been managing the business.
- 3. Accordingly, Bayou has no corporate management to manage Bayou as debtor in possession.
- 4. Before the filing of the bankruptcy petitions, a group of Bayou investors formed an Unofficial Committee of Investors and filed a lawsuit seeking the appointment of a federal equity receiver. Complaint, docket entry 1, filed 03/27/06, Unofficial On-Shore Creditors' Committee v. Bayou Group, LLC, 06-cv-2379, subsequently consolidated with In re Bayou, O6 MDL 1755; see Order of Consolidation, docket entry 27, entered 04/21/06.
- 5. The federal district court entered an order appointing Jeffrey Marwil, an attorney with Jenner & Block, as federal equity receiver. The Order Granting the Unofficial On-Shore Creditors' Committee's Motion to Appoint a Receiver provides that Marwil would

[S]ucceed to be the sole and exclusive managing member and representative of each of the Bayou Entities with the sole and exclusive power and authority to manage and direct the business and financial affairs of the Bayou Entities, including without limitation, the authority to petition for protection under the Bankruptcy Code . . . for any or all of the Bayou Entities and in connection therewith be and be deemed a debtor-in-possession for

any or all of the Bayou Entities in proceedings under Chapter 11 of the Code, and prosecute such adversary proceedings and other matters as may be permitted under the Code and/or applicable law . . . .

On-Shore Federal Equity Receiver Order, ¶ 7(e) docket entry docket entry 12, entered 05/03/06; In re Bayou Group, LLC, No. 06 MDL 1755; 06-cv-2379.

#### Legal Analysis and Argument

- 6. Under the Bankruptcy Code, the court must order the appointment of a chapter 11 trustee when "cause" exists or when "such appointment is in the interests of creditors." 11 U.S.C.  $\xi 1104(a)(1)$ , (2). Like all other chapter 11 cases where the debtor is not in possession, the Bayou case must be administered by a disinterested trustee who has clear legal authority to pursue litigation and to propose a plan. The Bankruptcy Code defines all receivers, including Marwil, as custodians, and the Bankruptcy Code severely limits the ability of a custodian or receiver to act as a fiduciary in a bankruptcy case. "Cause" therefore exists for the appointment of a chapter 11 trustee -- Bayou cannot exercise the powers and perform the duties of a trustee as a debtor in possession, and the receiver is not empowered under the Bankruptcy Code to exercise those powers and duties. Furthermore, appointing a chapter 11 trustee will serve the "interests of creditors" by assuring that the fiduciary duties and powers of a trustee are exercised by an officer clearly empowered under the law to do so.
- The federal district court appointed Marwil as a federal equity receiver. "[A] 7. receiver is the agent only of the court appointing him; he represents the court rather than the parties. He is custodian of property which is under the control of the court." Ledbetter v. Farmers Bank & Trust Co., 142 F.2d 147, 150 (4th Cir. 1944). "The scope of federal equity receivership in this country has diminished sharply as the scope of bankruptcy practice and other statutory receiverships have enlarged." Charles A. Wright & Arthur R. Miller Federal Practice & Procedure § 2966. The

Filed 09/21/2006

federal district court emphasized that the receivership terms were subject to the Bankruptcy Code. Cf. On-Shore Federal Equity Receiver Order, ¶ 7(e) (noting "as authorized by the Code")

- 8. Upon the filing of the bankruptcy cases, Marwil became a custodian and his role in the case is accordingly limited. "A receiver or trustee of any of the property of the debtor, appointed in a case . . . not under this title" is a "custodian." 11 U.S.C. § 101(11)(a-b). As a custodian, Marwil cannot "take any action in the administration of [] property of the debtor . . . or property of the estate ... except such action as is necessary to preserve such property." 11 U.S.C. § 543(a).
- 9. Marwil must turn over "any property of the debtor held by or transferred to such custodian" to a trustee or the debtor-in-possession. 11 U.S.C. § 543(b)(1); cf. 11 U.S.C. § 1107(a) (defining duties of debtor-in-possession as echoing those of a trustee). Bayou does not have responsible management in place, so Marwil cannot turn the property over to a debtor-in-possession.1
- 10. The Court cannot order Marwil's appointment as a receiver under the Bankruptcy Code. "A court may not appoint a receiver under . . . title [11]." 11 U.S.C. § 105(b). "[T]he bankruptcy judge is prohibited from appointing a receiver . . . under any circumstances. The Bankruptcy Code has ample provision for the appointment of trustees when needed. Any appointment of a receiver would simply circumvent the established procedures." H.R.Rep. No. 595, 95th Cong., 1st Sess. 316 (1977).
- Even when the turnover requirements are modified pursuant to § 543(d)(1), a 11. receiver may not act as a trustee or debtor in possession. "Since no section of the Code includes a receiver who remains in possession within the definition of trustee, the receiver does not take on the

On June 13, 2006, Marwil filed with this Court a document entitled "Notice of Compliance with Bankruptcy Code § 543. In this document, Marwil acknowledges that he had the legal obligation to turn over assets of the estates to a debtor in possession. He purports to have complied with this obligation by turning the assets over to himself. Under this circular construction of section 543, Marwil is a receiver

obligations and duties of a Chapter 11 trustee nor the somewhat different ones of a debtor-inpossession. Simply put the receiver has absolutely no responsibility . . . to perform any other duties which are the prerogative and burden of a debtor-in-possession and a trustee." In re 400 Madison Ave. Ltd. Partnership, 213 B.R. 888 (Bankr. S.D.N.Y. 1997). When a debtor in possession cannot perform these obligations and duties, these tasks must be delegated to a trustee. The District Court appointing Marwil was a stop-gap measure and cannot remove the Bankruptcy Court's obligation to establish proper fiduciary control of these cases in accordance with the requirements of the Bankruptcy Code. The appointment of a chapter 11 trustee avoids standing and procedural issues.

- 12. The need to establish control in the Bayou case in a properly empowered officer of the court establishes cause to appoint a chapter 11 trustee. Section 1104 mandates appointment of a trustee "for cause, including fraud, dishonesty, incompetence or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar case" 11 U.S.C. § 1104(a)(1). The Second Circuit recognizes that the phrase "cause, including" encompasses other types of cause than the examples in the itemized list. See C-TC 9th Ave. Partnership v. Norton Co. (In re C-TC 9th Ave. Partnership), 113 F.3d 1304, 1311 (2d Cir. 1997) (construing "cause, including" in context of section 1112, the dismissal or conversion statute; specifying that list following "including" is "illustrative not exhaustive;" and holding that "bad faith" could be additional type of cause); 11 U.S.C. § 102(3) ("including" is "not limiting").
- Two circuits have held that "cause" exists when appointing a chapter 11 trustee "is 13. the only effective way to pursue reorganization." Cajun Elec. Power Coop., Inc. v. Central La. Elec. Coop., Inc. (In re Cajun Elec. Power Coop., Inc.), 74 F.3d 599, 600 (5th Cir.) (adopting on rehearing the opinion of dissent in 69 F.3d 746, 751), cert. denied, 519 U.S. 808 (1996); see also In re Marvel

Entertainment Group, Inc., 140 F.3d 463 (3d Cir. 1998) (adopting reasoning of Cajun Electric. and affirming appointment of trustee when acrimony between debtor's management and creditors undermined any ability to prosecute bankruptcy case). While Cajun Electric and Marvel have factual distinctions, both Cajun Electric and Marvel focused on the underlying problem that exists in the Bayou case: this case can proceed properly through the chapter 11 process only if a chapter 11 trustee is appointed.

- Alternatively, the Court must order the appointment of a chapter 11 trustee because 14. the appointment will assure that Bankruptcy Code duties and powers are performed and exercised by a properly empowered person. This resolution "is in the interests of creditors." 11 U.S.C. § 1104(a)(2). The "interests of creditors" standard is flexible. In re Marvel Entertainment Group, Inc., 140 F.3d 463, 474 (3d Cir. 1998).
- The Bayou investors have an interest in having this case resolved cost-effectively 15. and quickly. As litigation commences to recover redemption proceeds, redemption recipients will invoke any available defenses. Skirmishes about Marwil's standing and his compliance with bankruptcy law will undoubtedly delay case administration, increase costs, and undermine public confidence in the efficacy of the bankruptcy process. The appointment of a chapter 11 trustee will remove any doubt over the authority of the person administering the estates and will therefore foster the interests of the investors.

#### The Court should waive the briefing requirement

Because this Motion does not raise any novel questions of law, the United States 16. Trustee requests that the Court waive the separate briefing requirement set forth in Local Bankruptcy Rule 9013-1(b).

#### Conclusion

Bayou defrauded its investors before the filing of these cases. Litigation is just commencing in this bankruptcy case to return redemptions. "This is a large and messy bankruptcy that promises to get worse without a disinterested administrator at the helm." Cajun Elec. Power Coop., Inc. v. Central La. Elec. Coop., Inc. (In re Cajun Elec. Power Coop., Inc.), 74 F.3d 599, 600 (5th Cir.) (adopting on rehearing the opinion of dissent in 69 F.3d 746, 751), cert. denied, 519 U.S. 808 (1996). Whether the Court orders the appointment "for cause" or for the "interests of creditors" and the public, the facts here mandate the appointment of a chapter 11 trustee.

WHEREFORE, the United States Trustee respectfully requests that the Court enter a final order granting this Motion, requiring the United States Trustee to appoint a chapter 11 trustee, and granting further proper relief.

Respectfully submitted,

DIANA G. ADAMS, ACTING UNITED STATES TRUSTEE

/s/ Lisa L. Lambert (LLL4913) Lisa L. Lambert Trial Attorney 33 Whitehall, 21st Floor New York, NY 10280 (212) 510-0500 (212) 668-2255 (facsimile)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK	HEARING DATE: HEARING TIME:
In re	Case No. 06-22306 (ASH)
BAYOU GROUP, LLC, et. al.,	(Chapter 11)
	Notice of United States Trustee's Motion to Appoint a Chapter 11 Trustee
X	•

#### AFFIRMATION OF SERVICE

Lisa L. Lambert affirms under penalty of perjury that the following is true and correct:

- I am a trial attorney with the Office of the United States Trustee for the Southern District of New York.
- On June 20, 2006, I caused a true and correct copy of the Notice of United States Trustee's Motion to Appoint a Chapter 11 Trustee to be served by regular mail upon the parties listed on the attached list by depositing a true copy of same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service within the City and State of New York.

/s/ Lisa L. Lambert (LLL4913) Lisa L. Lambert

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## APPELLANT'S BRIEF APPENDIX E

## **Bankruptcy Court's Docket Sheet**

APPEAL, Lead

#### U.S. Bankruptcy Court Southern District of New York (White Plains) Bankruptcy Petition #: 06-22306-ash

Assigned to: Judge Adlai S. Hardin Jr.

Chapter 11 Voluntary Asset

Bayou Group, LLC

Jeff J. Marwil c/o Jenner & Block LLP

One IBM Plaza Chicago, IL 60611 Tax id: 300313522

Debtor

**United States Trustee** 

33 Whitehall Street 21st Floor New York, NY 10004 (212) 510-0500 U.S. Trustee

Claims Agent, The Trumbull Group,

LLC

4 Griffin Road North Windsor, CT 06095

Claims and Noticing Agent

Official Unsecured Creditors'

Committee

Creditor Committee

represented by Elise Scherr Frejka

Dechert LLP

30 Rockefeller Plaza New York, NY 10112

212.649.8734 Fax: 212.698.3599

Email: elise.frejka@dechert.com

Date Filed: 05/30/2006

represented by Lisa L. Lambert

Office of the United State Trustee

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New York, NY 10004 (212) 510-0536 Fax: (212) 668-2255

Email: Lisa.L.Lambert@usdoj.gov

represented by Joseph A. Gershman

Kasowitz, Benson, Torres &

Friedman, LLP 1633 Broadway New York, NY 10019 (212) 506-1700 Fax: (212) 506-1800

Email: jgershman@kasowitz.com

Robert M. Novick

Kasowitz, Benson, Torres &

Friedman, LLP 1633 Broadway 21st Floor

New York, NY 10019 (212) 506-1700 Fax: (212) 506-1800 Email: rnovick@kasowitz.com

Filing Date	#	Docket Text
05/30/2006	1	Voluntary Petition (Chapter 11). Order for Relief Entered Filed by Elise Scherr Frejka of Dechert LLP on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 05/30/2006)
05/30/2006		Receipt of Voluntary Petition (Chapter 11)(06-22306) [misc,824] (1039.00) Filing Fee. Receipt number 3760613. Fee amount 1039.00. (U.S. Treasury) (Entered: 05/30/2006)
05/30/2006	2	Motion for Joint Administration filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A# 2 Exhibit B Proposed Order) (Frejka, Elise) (Entered: 05/30/2006)
05/30/2006	<u>3</u>	Declaration / Declaration of Jeff J. Marwil Pursuant to Local Bankruptcy Rule 1007-2 In Support of First Day Motions filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit Exhibit B# 2 Schedule) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	4	Motion to Allow Motion for Interim and Final Orders (I) Authorizing Debtors and Debtors in Possession to (A) Obtain Post-Petition Financing Pursuant to Sections 364(c) And 364(d) of the Bankruptcy Code, (B) Utilize Cash Collateral Pursuant to Sections 105, 361, and 363 of the Bankruptcy Code on a Consensual Basis, (II) Granting Adequate Protection, and (III) Scheduling Final Hearing Pursuant to Rule 4001(b) of the Federal Rules of Bankruptcy Procedure filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A# 2 Exhibit B Promissory Note# 3 Exhibit C Security Agreement# 4 Exhibit D UCC Filings# 5 Exhibit E Proposed Order# 6 Exhibit Proposed Budget) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	5	Motion to Allow /Motion of the Debtors and Debtors-In-Possession Pursuant to Bankruptcy Rule 1015(c) Establishing Noticing Procedures filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A# 2 Exhibit B) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	<u>6</u>	Application to Employ /Application of Debtors and Debtors-In- Possession Pursuant to Sections 327(a), 328(a), and 329(a) of the

		Bankruptcy Code for an Order Authorizing the Retention and Employment of Dechert LLP as General Bankruptcy and Litigation Counsel filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A Declaration of H. Jeffrey Schwartz# 2 Exhibit B Order# 3 Exhibit C Engagement Letter# 4 Exhibit D Proposed Order) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	7	Application to Employ /Application of Debtors and Debtors-In-Possession Pursuant to Sections 327(a), 328(a), and 330 of the Bankruptcy Code for an Order Authorizing the Retention and Employment of FTI Consulting, Inc. as Financial Advisor filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A Declaration of Robert Paul# 2 Exhibit B Engagement Letter# 3 Exhibit C Order# 4 Exhibit D Proposed Order) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	<u>8</u>	Motion to Allow /Motion for an Administrative Order Under Local Bankruptcy Rule 2016-1 and Sections 105(a) and 331 of the Bankruptcy Code For An Order Establishing Procedures for Interim Monthly Compensation of Professionals filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A Order# 2 Exhibit B) (Frejka, Elise) Modified on 5/30/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	9	Application for Pro Hac Vice Admission of H. Jeffrey Schwartz filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 05/30/2006)
05/30/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 3761154. Fee amount 25.00. (U.S. Treasury) (Entered: 05/30/2006)
05/30/2006	10	Notice of Hearing /Notice of Chapter 11 Filing and Hearing on Certain First Day Motions filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. with hearing to be held on 5/31/2006 at 11:00 AM at Courtroom 520, White Plains Office (Frejka, Elise) Modified on 5/31/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/30/2006	11	Notice of Appearance and Demand for Service of Papers filed by Joseph Thomas Moldovan on behalf of Silver Creek Capital Management LLC and Silver Creek Long/Short Holdings. (Moldovan, Joseph) (Entered: 05/30/2006)
05/30/2006	12	Application to Employ /Application of the Debtors and Debtors-In- Possession Pursuant to 28 U.S.C. Section 156(c) for an Order Authorizing the Retention and Employment of The Trumbull Group as CLAIMS AGENT filed by Elise Scherr Frejka on behalf of Bayou

		Group, LLC. (Attachments: # 1 Exhibit A Collum Affidavit# 2 Exhibit B Retention Agreement# 3 Exhibit C Receivership Order# 4 Exhibit D Proposed Order# 5 Pleading Frejka Declaration in Support of Retention) (Frejka, Elise) Modified on 5/31/2006 (Correa, Mimi). (Entered: 05/30/2006)
05/31/2006	<u>13</u>	Order signed on 5/31/2006 Granting Motion for Joint Administration (Related Doc # 2). An Order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Bayou Group, LLC and its direct and indirect debtor subsidiaries and affiliates. The docket in Chapter 11 Case No. 06-22306(ASH) shall be consulted for all matters affecting this case. (Correa, Mimi) (Entered: 05/31/2006)
05/31/2006	<u>14</u>	Order signed on 5/31/2006 Establishing Notice Procedures (Related Doc # 5). (Correa, Mimi) (Entered: 05/31/2006)
05/31/2006	<u>15</u>	Interim Order signed on 5/31/2006 Authorizing the Debtors to Retain and Employ Dechert LLP as General Bankruptcy and Litigation Counsel (Related Doc # 6). (Correa, Mimi) (Entered: 05/31/2006)
05/31/2006	<u>16</u>	Interim Order signed on 5/31/2006 Authorizing the Debtors and Debtors-In-Possession to Retain and Employ and Retain FTI Consulting, Inc. as Financial Advisor (Related Doc # 7). (Correa, Mimi) (Entered: 05/31/2006)
05/31/2006	<u>17</u>	Order signed on 5/31/2006 APPOINTING THE TRUMBULL GROUP AS CLAIMS AGENT (Related Doc # 12). (Correa, Mimi) (Entered: 05/31/2006)
05/31/2006	<u>18</u>	Order signed on 5/31/2006 Scheduling Initial Case Conference to be held on 6/20/2006 at 11:00 AM at Courtroom 520, White Plains Office. Modified on 5/31/2006 (Correa, Mimi). (Entered: 05/31/2006)
05/31/2006	19	Order signed on 5/31/2006 Granting Application for Pro Hac Vice Admission of Richard A. Kirby, Esq. (Filing Fee Paid \$25.00, Receipt Number 41105) Modified on 6/7/2006 (Correa, Mimi). (Entered: 05/31/2006)
06/02/2006	<u>20</u>	Affidavit of Service regarding service of Various First-Day Pleadings (related document(s)10, 9, [], 8, 3, 5, 12, 7, 4, 2, 6) filed by Claims Agent, The Trumbull Group, LLC. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D# 5 Exhibit E# 6 Exhibit F# 7 Exhibit G# 8 Exhibit H# 9 Exhibit I# 10 Exhibit J# 11 Exhibit K) (Halley, Brendan) (Entered: 06/02/2006)
06/05/2006	21	Letter regarding Jun 9, 2006, Creditors Committee Formation

		Meeting filed by Lisa L. Lambert on behalf of United States Trustee. (Attachments: # 1 Creditors' Committee Interest Form)(Lambert, Lisa) (Entered: 06/05/2006)
06/06/2006	22	Affidavit of Service (related document(s)18, 6, 7, 15, 16) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 06/06/2006)
06/07/2006	23	Order signed on 6/6/2006 granting Application for Pro Hac Vice Admission of H. Jeffrey Schwartz. (Filing Fee Paid \$25.00, Receipt number 3761154) (related document(s)9) (Correa, Mimi) (Entered: 06/07/2006)
06/13/2006	24	Statement /Notice of Compliance with Bankruptcy Code Section 543 filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Exhibit A Appointment Order) (Frejka, Elise) (Entered: 06/13/2006)
06/14/2006	25	Notice of Meeting of Creditors /Notice Of Chapter 11 Bankruptcy Cases, Meeting Of Creditors & Deadlines filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. with 341(a) meeting to be held on 7/7/2006 at 10:00 AM at 80 Broad St., 2nd Floor, USTM. (Frejka, Elise) (Entered: 06/14/2006)
06/15/2006	<u>26</u>	Appointment of Official Creditors' Committee filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 06/15/2006)
06/15/2006	<u>27</u>	Affidavit of Service regarding Notice of Compliance with Bankruptcy Code Section 543 (related document(s)24) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 06/15/2006)
06/15/2006	28	Affidavit of Service regarding Notice Of Chapter 11 Bankruptcy Cases, Meeting Of Creditors & Deadlines (related document(s)25) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 06/15/2006)
06/20/2006	<u>29</u>	Motion to Appoint Trustee (Chapter 11 Trustee) filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 06/20/2006)
06/20/2006	30	Motion to Limit Notice and Shorten Objection Period for Motion to Appoint Chapter 11 Trustee filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 06/20/2006)
06/21/2006	31	Final Order signed on 6/20/2006 Granting Motion authorizing the debtors to (I) obtain post-petition financing (II) utilize cash collateral

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		(III) granting adequate protection, and (IV) scheduling final hearing, et.al.,(Related Doc # 4) (Webb, Lonnie) (Entered: 06/21/2006)
06/21/2006	<u>32</u>	Order signed on 6/20/2006 Granting Application to Employ Dechert, LLP as general bankruptcy & litigation counsel. (Related Doc # 6) (Webb, Lonnie) (Entered: 06/21/2006)
06/21/2006	33	Notice of Appearance / Notice of Appearance and Request for Service of Papers filed by Jonathan Koevary on behalf of Eric Garfinkel, Diane Garfinkel. (Koevary, Jonathan) (Entered: 06/21/2006)
06/26/2006	<u>34</u>	Order signed on 6/26/2006 Granting Application for Shortened Objection Time and for Shortened Service List for Motion to Appoint a Chapter 11 Trustee. (related document(s)30). Hearing to be held on 6/29/2006 at 10:30 AM at Courtroom 520, White Plains Office (Tavarez, Arturo) (Entered: 06/26/2006)
06/27/2006	<u>35</u>	Memorandum of Law /Memorandum of Law in Opposition to the Motion of the United States Trustee for the Appointment of a Chapter 11 Trustee (related document(s)29) filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Attachments: # 1 Appendix A - Order# 2 Appendix B - Excerpts from Refco Hearing) (Frejka, Elise) (Entered: 06/27/2006)
06/27/2006	36	Notice of Hearing on Motion to Appoint Trustee (Chapter 11 Trustee) (related document(s)29) filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 06/27/2006)
06/28/2006	<u>37</u>	Application to Employ /Application of the Official Unsecured Creditors' Committee for Order Authorizing and Approving the Employment and Retention of Preston Gates Eliis & Rouvelas Meeds LLP as Counsel, Nunc Pro Tunc to June 9, 2006 filed by Robert M. Novick on behalf of Official Unsecured Creditors' Committee. (Attachments: # 1 Exhibit A - Declaration of Richard A. Kirby# 2 Exhibit B - Engagement Letter# 3 Exhibit C - Proposed Order) (Novick, Robert) (Entered: 06/28/2006)
06/28/2006	38	Application to Employ / Application of the Official Unsecured Creditors' Committee for Order Authorizing and Approving the Employment and Retention of Kasowitz, Benson, Torres & Friedman LLP as Counsel, Nunc Pro Tunc to June 9, 2006 filed by Robert M. Novick on behalf of Official Unsecured Creditors' Committee. (Attachments: # 1 Exhibit A - Declaration of Joel Gershman# 2 Exhibit B - Engagement Letter# 3 Exhibit C - Proposed Order) (Novick, Robert) (Entered: 06/28/2006)
06/28/2006	<u>39</u>	Objection to Motion / Objection and Memorandum of Law in Opposition to the United States Trustee's Motion to Appoint a

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		Chapter 11 Trustee (related document(s)29) filed by Robert M. Novick on behalf of Official Unsecured Creditors' Committee. (Novick, Robert) (Entered: 06/28/2006)
06/28/2006	<u>40</u>	Declaration of Jonathan J. Fisher in Opposition to the United States Trustee's Motion to Appoint a Chapter 11 Trustee (related document (s)39) filed by Robert M. Novick on behalf of Official Unsecured Creditors' Committee. (Novick, Robert) (Entered: 06/28/2006)
06/28/2006	<u>41</u>	Response to Motion / Response of Eric and Diane Garfinkel in Support of United States Trustee's Motion to Appoint a Chapter 11 Trustee (related document(s)29) filed by Philip Bentley on behalf of Diane Garfinkel, Eric Garfinkel. with hearing to be held on 6/29/2006 at 10:30 AM at Courtroom 520, White Plains Office (Attachments: # 1 Exhibit A# 2 Exhibit B (Part 1)# 3 Exhibit B (Part 2)# 4 Exhibit C# 5 Exhibit D# 6 Exhibit E# 7 Exhibit F) (Bentley, Philip) (Entered: 06/28/2006)
06/28/2006	42	Affidavit of Service of Scott H. Bernstein (related document(s)37, 38) filed by Robert M. Novick on behalf of Official Unsecured Creditors' Committee. (Novick, Robert) (Entered: 06/28/2006)
06/28/2006	43	Affidavit of Service of Ryan Wagner (related document(s)41) filed by Philip Bentley on behalf of Diane Garfinkel, Eric Garfinkel. (Bentley, Philip) (Entered: 06/28/2006)
06/28/2006	<u>44</u>	Supplemental Objection to Motion /Supplemental Response Of The Debtors And Debtors-In-Possession In Further Opposition To The Motion Of The United States Trustee To Appoint A Chapter 11 Trustee (related document(s)29) filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 06/28/2006)
06/30/2006	<u>45</u>	Affidavit of Service regarding Memorandum of Law in Opposition to the Motion of the United States Trustee for the Appointment of a Chapter 11 Trustee (related document(s)35) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 06/30/2006)
06/30/2006	<u>46</u>	Notice of Appearance for UT Medical Group Inc Basic Pension Plan filed by Lori Lapin Jones on behalf of UT Medical Group Inc. Basic Pension Plan. (Jones, Lori) (Entered: 06/30/2006)
06/30/2006	47	Application for Pro Hac Vice Admission filed by Lori Lapin Jones on behalf of UT Medical Group Inc. Basic Pension Plan. (Attachments: # 1 Exhibit Declaration of E. Franklin Childress, Jr.) (Jones, Lori) (Entered: 06/30/2006)
06/30/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash)

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		[motion,122] (25.00) Filing Fee. Receipt number 3806493. Fee amount 25.00. (U.S. Treasury) (Entered: 06/30/2006)
06/30/2006	48	Application for Pro Hac Vice Admission with cover letter to Clerk filed by George G. Wilder on behalf of Commodity Futures Trading Commission. (Wilder, George) (Entered: 06/30/2006)
06/30/2006	<u>49</u>	Order signed on 6/30/2006 Denying Motion of the United States Trustee for the Appointment of a Chapter 11 Trustee. (Tavarez, Arturo) (Entered: 06/30/2006)
06/30/2006	<u>50</u>	Second Application for Pro Hac Vice Admission with corrected cover letter to Clerk filed by George G. Wilder on behalf of Commodity Futures Trading Commission. (Wilder, George) (Entered: 06/30/2006)
06/30/2006	<u>51</u>	Notice of Conventional Filing of Transcript of Hearing Re: First Day Orders, Hearing held on 5/31/2006, filed by TypeWrite Word Processing Service. (Webb, Lonnie) Modified on 7/6/2006 (Correa, Mimi). (Entered: 07/06/2006)
07/06/2006	<u>52</u>	Notice of Appearance with certificate of service and cover letter to the Clerk filed by George G. Wilder on behalf of Commodity Futures Trading Commission. (Wilder, George) (Entered: 07/06/2006)
07/10/2006	53	Notice of Appeal of Order Denying Motion of the United States Trustee for the Appointment of a Chapter 11 Trustee (related document(s)49) filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 07/10/2006)
07/10/2006	<u>54</u>	Notice of Appearance filed by Scott Berman on behalf of Arntz Family Foundation. (Berman, Scott) (Entered: 07/10/2006)
07/10/2006	<u>55</u>	Objection to Motion Committee's Applications to Retain Two Law Firms (related document(s)37, 38) filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 07/10/2006)
07/11/2006		Notice of Continuance of First Meeting of Creditors filed by Lisa L. Lambert on behalf of United States Trustee. with 341(a) meeting to be held on 7/25/2006 at 02:00 PM at 80 Broad St., 2nd Floor, USTM. (Lambert, Lisa) (Entered: 07/11/2006)
07/11/2006	<u>56</u>	Order signed on 7/10/2006 Granting Application for Pro Hac Vice Admission of attorney E. Franklin Childress, Jr. (Related Doc # 47) (Webb, Lonnie) (Entered: 07/11/2006)
07/12/2006	<u>57</u>	Affidavit of Service (related document(s)54) filed by Scott Berman

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		on behalf of Arntz Family Foundation. (Berman, Scott) (Entered: 07/12/2006)
07/12/2006	<u>58</u>	Response -Reply of the Official Unsecured Creditors' Committee in Support of its Applications for Orders Authorizing and Approving the (I) Employment and Retention of Kasowitz, Benson, Torres & Friedman LLP as Special Counsel, Nunc Pro Tunc to June 9, 2006 and (II) Employment and Retention of Preston Gates Ellis & Rouvelas Meeds LLP as Counsel, Nunc Pro Tunc to June 9, 2006 filed by Joseph A. Gershman on behalf of Official Unsecured Creditors' Committee. with hearing to be held on 7/13/2006 (check with court for location) (Gershman, Joseph) (Entered: 07/12/2006)
07/12/2006	<u>59</u>	Affidavit of Service regarding Reply of the Official Unsecured Creditors' Committee in Support of its Applications for Orders Authorizing and Approving the (I) Employment and Retention of Kasowitz, Benson, Torres & Friedman LLP as Special Counsel, Nunc Pro Tunc to June 9, 2006 and (II) Employment and Retention of Preston Gates Ellis & Rouvelas Meeds LLP as Counsel, Nunc Pro Tunc to June 9, 2006 (related document(s)58) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 07/12/2006)
07/13/2006		Receipt of Notice of Appeal(06-22306-ash) [appeal,97] (255.00) Filing Fee. Receipt number 211920. Fee amount 255.00. (Correa) (Entered: 07/13/2006)
07/17/2006	<u>60</u>	Order signed on 7/12/2006 Granting Application for Pro Hac Vice Admission for Attorney George G. Wilder. (Related Doc # 50) (Webb, Lonnie) (Entered: 07/17/2006)
07/17/2006	<u>61</u>	Order signed on 7/13/2006 Granting Application to Employ Preston Gates Ellis & Rouvelas Meeds, LLP as Counsel to the Official Unsecured Creditors' Committee of Bayou Group, LLC, et.al., Nunc Pro Tunc to June 9, 2006. (Related Doc # 37) (Webb, Lonnie) (Entered: 07/17/2006)
07/17/2006	62	Order signed on 7/13/2006 Granting Application to Employ of Kasowitz, Benson, Torres & Friedman, LLP as Counsel to the Official Unsecured Creditors Committee of Bayou Group, LLC, et.al., Nunc Pro Tunc to June 9, 2006. (Related Doc # 38) (Webb, Lonnie) (Entered: 07/17/2006)
07/18/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number EIE0622306. Fee amount 25.00. (Brundage) (Entered: 07/18/2006)
07/18/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 623. Fee amount

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		25.00. (Brundage) (Entered: 07/18/2006)
07/19/2006	<u>63</u>	Notice of Withdrawal Of Application Of The Debtors And Debtors In Possession To Employ FTI Consulting, Inc. As Financial Advisor (related document(s)?) filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 07/19/2006)
07/19/2006	<u>64</u>	Declaration /First Supplemental Declaration of H. Jeffrey Schwartz in Further Support of the Appilcation Authorizing Retention and Employment of Dechert LLP as General Bankruptcy and Litigation Counsel to the Debtors (related document(s)6) filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 07/19/2006)
07/19/2006	<u>65</u>	Notice of Presentment of Stipulation and Order Concerning Turnover of Documents filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. with presentment to be held on 7/28/2006 at 12:00 PM at Courtroom 520, White Plains Office Objections due by 7/28/2006, (Frejka, Elise) Modified on 7/20/2006 (Correa, Mimi). (Entered: 07/19/2006)
07/19/2006	<u>66</u>	Operating Report for the period May 31, 2006 through June 30, 2006 filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) Modified on 7/20/2006 (Correa, Mimi). (Entered: 07/19/2006)
07/20/2006	<u>67</u>	Designation of Contents (appellant). and Statement of Issue for Appeal of Order Denying Motion to Appoint a Trustee (related document(s)53) filed by Lisa L. Lambert on behalf of United States Trustee. (Lambert, Lisa) (Entered: 07/20/2006)
07/20/2006	<u>68</u>	Affidavit of Service (related document(s)65, 66, 63, 64) filed by Claims Agent, The Trumbull Group, LLC. (Halley, Brendan) (Entered: 07/20/2006)
07/20/2006	69	Notice of Appearance filed by Scott Berman on behalf of K.H. William Krueger, Thomas E. & Andrea Arntz Family Revocable Trust, Arntz Builders & Profit Sharing Trust. (Berman, Scott) (Entered: 07/20/2006)
07/21/2006		(ENTERED IN ERROR - Belong in Adverary Proceeding) Summons with Notice of Pre-Trial Conference issued by Clerk's Office with Pre-Trial Conference set for 8/23/2006 at 09:40 AM at Courtroom 520, White Plains Office, Answer due by 8/21/2006, (Webb, Lonnie) Modified on 7/21/2006 (Correa, Mimi). (Entered: 07/21/2006)
07/25/2006		Notice of Continuance of First Meeting of Creditors filed by Lisa L. Lambert on behalf of United States Trustee. with 341(a) meeting to

		be held on 8/22/2006 at 02:00 PM at 80 Broad St., 2nd Floor, USTM. (Lambert, Lisa) (Entered: 07/25/2006)	
07/26/2006	<u>70</u>	Application for FRBP 2004 Examination of Consulting Services Group LLC, Altegris Investments, Hennessee Group LLC, and Aris Partners filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. with presentment to be held on 7/31/2006 at 04:00 PM at Room 243A, White Plains Responses due by 7/31/2006, (Frejka, Elise) (Entered: 07/26/2006)	
07/26/2006	71	Notice of Withdrawal of Application for 2004 Examination of Consulting Services Group LLC, Altegris Investments, Hennessee Group LLC, and Aris Partners (related document(s)70) filed by Elise Scherr Frejka on behalf of Bayou Group, LLC. (Frejka, Elise) (Entered: 07/26/2006)	
07/28/2006	72	Application for Pro Hac Vice Admission of William R. Hinchman, Esq. filed by Steven D. Usdin on behalf of Broad-Bussel Family Limited Partnership, Marie-Louise Michelsohn, Michelle Michelsohn and Herbert Blaine Lawson, Jr.; individually and on behalf of all other persons and entities similarly situated. (Usdin, Steven) (Entered: 07/28/2006)	
07/28/2006	<u>73</u>	Application for Pro Hac Vice Admission of Jonathan M Stemerman, Esq. filed by Steven D. Usdin on behalf of Broad-Bussel Family Limited Partnership, Marie-Louise Michelsohn, Michelle Michelsohn and Herbert Blaine Lawson, Jr.; individually and on behalf of all other persons and entities similarly situated. (Usdin, Steven) (Entered: 07/28/2006)	
07/28/2006	<u>74</u>	Application for Pro Hac Vice Admission of Gary M. Schildhorn, Esq. filed by Steven D. Usdin on behalf of Broad-Bussel Family Limited Partnership, Marie-Louise Michelsohn, Michelle Michelsohn and Herbert Blaine Lawson, Jr.; individually and on behalf of all other persons and entities similarly situated. (Usdin, Steven) (Entered: 07/28/2006)	
07/28/2006	<u>75</u>	Application for Pro Hac Vice Admission of Gary D. Bressler, Esq. filed by Steven D. Usdin on behalf of Broad-Bussel Family Limited Partnership, Marie-Louise Michelsohn, Michelle Michelsohn and Herbert Blaine Lawson, Jr.; individually and on behalf of all other persons and entities similarly situated. (Usdin, Steven) (Entered: 07/28/2006)	
07/28/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 3844574. Fee amount 25.00. (U.S. Treasury) (Entered: 07/28/2006)	

07/28/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 3844574. Fee amount 25.00. (U.S. Treasury) (Entered: 07/28/2006)	
07/28/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 3844574. Fee amount 25.00. (U.S. Treasury) (Entered: 07/28/2006)	
07/28/2006		Receipt of Application for Pro Hac Vice Admission(06-22306-ash) [motion,122] (25.00) Filing Fee. Receipt number 3844574. Fee amount 25.00. (U.S. Treasury) (Entered: 07/28/2006)	
07/28/2006	<u>76</u>	Notice of Appearance and Request for Service of Papers filed by William J. Factor on behalf of The Jewish Federation of Metropolitan Chicago. (Factor, William) (Entered: 07/28/2006)	
07/31/2006	<u>77</u>	So Ordered Stipulation signed on 7/31/2006 Concerning Turnover of Documents. (Webb, Lonnie) (Entered: 07/31/2006)	
07/31/2006	<u>78</u>	Order signed on 7/31/2006 Granting Application for Pro Hac Vice Admission for Gary D. Bressler (Related Doc # 75) (Webb, Lonnie) (Entered: 07/31/2006)	
07/31/2006	<u>79</u>	Order signed on 7/31/2006 Granting Application for Pro Hac Vice Admission for Gary M. Schildhorn (Related Doc # 74) (Webb, Lonnie) (Entered: 07/31/2006)	
07/31/2006	80	Order signed on 7/31/2006 Granting Application for Pro Hac Vice Admission for William R. Hinchman (Related Doc # 72) (Webb, Lonnie) (Entered: 07/31/2006)	
07/31/2006	<u>81</u>	Order signed on 7/31/2006 Granting Application for Pro Hac Vice Admission for Jonathan M. Stemerman (Related Doc # 73) (Webb, Lonnie) (Entered: 07/31/2006)	

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